

# STATE OF NEW YORK

9609

## IN SENATE

May 16, 2024

Introduced by Sens. KRUEGER, CLEARE -- read twice and ordered printed,  
and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to prohibiting the  
use of algorithmic systems to artificially inflate the price or reduce  
the supply of leased or rented residential dwelling units in the state

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "New York Preventing the Algorithmic Facilitation of Rental Housing  
3 Cartels Act of 2024".

4 § 2. The real property law is amended by adding a new section 222-a to  
5 read as follows:

6 § 222-a. Algorithmic systems. 1. As used in this section:

7 (a) "Consciously parallel pricing coordination" means a tacit agree-  
8 ment between two or more rental property owners to raise, lower, change,  
9 maintain, or manipulate pricing for the purchase or sale of reasonably  
10 interchangeable products or services.

11 (b) "Coordinating function" means:

12 (i) collecting historical or contemporaneous prices, supply levels, or  
13 lease or rental contract termination and renewal dates of residential  
14 dwelling units from two or more rental property owners;

15 (ii) analyzing or processing of the information described in subpara-  
16 graph (i) of this paragraph using a system, software, or process that  
17 uses computation, including by using that information to train an algo-  
18 rithm; and

19 (iii) recommending rental prices, lease renewal terms, or ideal occu-  
20 pancy levels to a rental property owner.

21 (c) "Coordinator" means any person that operates a software or data  
22 analytics service that performs a coordinating function for any rental  
23 property owner, including a rental property owner performing a coordi-  
24 nating function for their own benefit.

25 (d) "Division" means the division of housing and community renewal.

26 (e) "Person" means any individual, corporation, partnership, associ-  
27 ation, trustee, municipality or other legal entity, including corpo-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD14362-02-4

1 rations and associations existing under or authorized by the laws of  
2 either the United States, the laws of any of the territories, the laws  
3 of any state, or the laws of any foreign country; provided that "person"  
4 shall not include the state or any state agency.

5 (f) "Pre-dispute arbitration agreement" means an agreement between two  
6 or more parties to arbitrate a dispute between the parties that is made  
7 before any dispute has arisen.

8 (g) "Pre-dispute joint action waiver" means an agreement between two  
9 or more parties, which may be part of a pre-dispute arbitration agree-  
10 ment, that:

11 (i) would prohibit or waive the right of a party to participate in a  
12 joint, class, or collective action in a judicial, arbitral, administra-  
13 tive, or other forum relating to a dispute between two parties; and

14 (ii) is made before any dispute has arisen.

15 (h) "Residential dwelling unit" means any house, apartment, accessory  
16 unit, or other unit intended to be used as a primary residence; provided  
17 that "residential dwelling unit" does not include inpatient medical  
18 care, licensed long-term care, and detention or correctional facilities.

19 (i) "Rental property owner" means any individual, corporation, part-  
20 nership, association, joint-stock company, trust, or unincorporated  
21 organization that owns real property and leases or rents such property  
22 or any portion thereof in the form of four or more residential dwelling  
23 units.

24 2. It is unlawful for:

25 (a) a rental property owner, in or affecting commerce, or any agent or  
26 subcontractor thereof, to subscribe to, contract with, or otherwise  
27 exchange anything of value in return for the services of a coordinator;

28 (b) a coordinator, in or affecting commerce, to facilitate an agree-  
29 ment among rental property owners to not compete with respect to resi-  
30 dential dwelling units, including by performing a coordinating function;  
31 or

32 (c) any coordinator, in or affecting commerce, to acquire, directly or  
33 indirectly, the whole or any part of the stock or other share capital of  
34 another coordinator if the acquisition would create an appreciable risk  
35 of materially lessening competition, or tend to create a monopoly or  
36 monopsony, and any such acquisition shall be deemed a violation of this  
37 section.

38 3. (a) In addition to any other action or proceeding authorized by  
39 law, the attorney general may bring an action or special proceeding in  
40 the supreme court, in the name and on behalf of the people of the state  
41 of New York, against a person violating the provisions of this section  
42 to enjoin such person from continuing the violation or engaging in any  
43 acts in furtherance thereof, to compel compliance with the provisions of  
44 this section and/or to recover any monetary penalty for such violation.  
45 Any such action or proceeding may be compromised or discontinued on  
46 application of the department upon such terms as the court shall approve  
47 and order.

48 (b) If the department has reason to believe that a person violated  
49 this section, the department may commence a civil action, in its own  
50 name by any of its attorneys designated by it for such purpose, to  
51 recover a civil penalty and seek other appropriate relief in any court  
52 of competent jurisdiction.

53 (c) All monies recovered in any such action or special proceeding,  
54 together with the costs thereof shall be paid into the state treasury to  
55 the credit of the general fund.

56 4. In a civil action under this section, a complaint:

1 (a) plausibly pleads a violation of this section and if the complaint  
2 contains factual allegations, including allegations of consciously  
3 parallel pricing coordination, demonstrating that the existence of a  
4 contract, combination in the form of trust or otherwise, or conspiracy  
5 in restraint of trade or commerce is among the realm of plausible possi-  
6 bilities; and

7 (b) need not allege facts tending to exclude the possibility of inde-  
8 pendent action.

9 5. A pre-dispute arbitration agreement or pre-dispute joint action  
10 waiver relating to a violation of this section shall be invalid or unen-  
11 forceable.

12 6. Nothing in this section shall be construed to preempt any state,  
13 tribal, city, or local law, regulation, or ordinance that explicitly  
14 supplements this section.

15 § 3. Severability. If any clause, sentence, paragraph, subdivision,  
16 section or part of this act shall be adjudged by any court of competent  
17 jurisdiction to be invalid, such judgment shall not affect, impair, or  
18 invalidate the remainder thereof, but shall be confined in its operation  
19 to the clause, sentence, paragraph, subdivision, section or part thereof  
20 directly involved in the controversy in which such judgment shall have  
21 been rendered. It is hereby declared to be the intent of the legislature  
22 that this act would have been enacted even if such invalid provisions  
23 had not been included herein.

24 § 4. This act shall take effect immediately.